

**Texas Commission on Environmental Quality (TCEQ)**

**Proposition 2 - Property Tax Exemption Program**

**Docket Numbers**

**2008-0830-MIS-U (Tenaska Gateway Partners, Ltd. – Rusk County)**  
**2008-0832-MIS-U (Borger Energy Associates, L.P. – Hutchinson County)**  
**2012-1552-MIS-U (Bosque Power Company, L.L.C. – Bosque County)**  
**2012-1562-MIS-U (Cottonwood Energy Company, L.P. – Newton County)**  
**2012-1586-MIS-U (Wolf Hollow, L.P. – Hood County)**  
**2012-1587-MIS-U (South Texas Electric Cooperative, Inc.. – Victoria County)**  
**2012-1648-MIS-U (Brazos Electric Power Cooperative, Inc. – Jack County)**  
**2012-1660-MIS-U (Wise County Power Company, L.L.C. – Wise County)**  
**2012-1689-MIS-U (Oxy Vinyls, L.P. – San Patricio County)**

IN SUPPORT OF THE EXECUTIVE	§	BEFORE THE
DIRECTOR'S NEGATIVE USE	§	
DETERMINATIONS ISSUED FOR	§	TEXAS COMMISSION ON
HEAT RECOVERY STEAM GENERATORS	§	
IN POWER GENERATION PLANTS.	§	ENVIRONMENTAL QUALITY

**PRITCHARD & ABBOTT, INC. (P&A) BRIEF**

**ON BEHALF OF THE APPRAISAL DISTRICTS IN THE FOLLOWING COUNTIES:  
BOSQUE, HOOD, HUTCHINSON, JACK, NEWTON, RUSK, SAN PATRICIO, VICTORIA  
AND WISE**

By: Charles Wayne Frazell, P.E., RPA

**I. Property Description**

Combined-cycle power plants consist of one or more generators powered by industrial size jet engines. These engines can be fueled by most combustible gas or liquids, but currently, most are fueled by natural gas. The hot exhaust from these engines is passed through a heat recovery steam generator (HRSG). A HRSG is essentially a boiler without the burners. In a combined-

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cycle plant this boiler creates steam that is sold or used to turn an electric generator(s) just like nuclear, coal and older natural gas fired power plants.

## II. Rule Change

The TCEQ rules were changed in response to the 2007 Texas Legislature HB 3732. The bill states "(k) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices or methods for the control of air, water, or land pollution which must include." The nonexclusive list has Heat Recovery Steam Generators as the eighth item. This does not say that HRSGs are exempt but only puts them on the list for consideration. Various comments in the bill, after the listing, clearly leave the determination of pollution control to the TCEQ.

A HRSG is often added to recover exhaust gases to preheat water entering the boiler of a conventional electric generating plant to improve efficiency. However, these HRSGs are not the driving force behind the plant production. If a HRSG is **added** just to improve efficiency, the HRSG may qualify for an exemption. That is not the case in combined-cycle power plants. In the case of a combined-cycle power plant, the HRSG is the primary driving force for 30% or more of the electric generation.

## III. Compliance

To some it will appear that the boiler that recovers the exhaust heat from the turbine engines qualifies as a pollution control item. This of course ignores the fact that this boiler is a major component of production. It was installed to produce more electricity or steam to sell and not to reduce pollution. If the jet engines were not ducted to the boiler, and burners were added, the HRSG side of the plant would operate as a conventional steam driven plant. It is not the boiler that reduces the pollution. Ducting the hot gases from the jet engine(s) reduces the pollution by reducing the need for an additional heat source (burners).

As a general rule when a component for pollution control is removed, there is little or no loss in production. For example, when a catalytic converter is removed from an engine it still produces the same horsepower. If electronic precipitators are removed from the exhaust of a coal-burning power plant, it still produces the same amount of electricity.

If the boiler (HRSG) is removed from a combined-cycle/cogeneration power plant, production is greatly reduced. Since removal of this component significantly reduces the amount of product (electricity and/or steam) produced, this boiler is primarily production equipment. It is not a pollution control device.

Before now, there were no environmental tax exemptions granted for the HRSG in a combined-cycle power plant. Few, if any, gas-fired steam-powered electric generators have been built since the late 1970s because of the economic advantages of building a combined-cycle power plant. Some simple-cycle gas turbines have been built for peaking purposes, but, economics have driven the construction of combined-cycle generation for gas fueled generating plants.

On September 28, 2005 the Texas Commission on Environmental Quality heard the case docket number 2005-1008-AIR-U Appeal of Use Determination No. 04-8353. This case was between XTO Energy and Freestone County Appraisal District concerning a plant that removes sulfur and CO<sub>2</sub> from natural gas. In this case the TCEQ ruled that those components used directly in production were not pollution control equipment. Since these HRSGs are in the production path, they should be considered production equipment and should be treated in the same way as this previous ruling.

In 1992 the people of Texas voted and approved Proposition 2 creating the current environmental tax exemption. The ballot read "The constitutional amendment to promote the reduction and encourage the preservation of jobs by authorizing the exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution." These boilers are used for production and not to control pollution. I believe the majority of the people would have

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voted "**NO**" on this proposition, if they thought it would include production equipment that produces INCOME and is not MANDATED by law!

#### IV. Limitations

If these HRSGs are found to be exempted, then a detailed description of what will be exempted needs to be provided to all parties. For example, do we also include the deaerator, the condenser, the pumps, all of the steam piping and other equipment installed to produce INCOME? If any exemption is granted in this case, then the TCEQ should provide direction to the applicants and the appraisal districts as to what does and does not qualify.

Just to point out how ridiculous an applicant request can become - if common sense is not exercised - please consider the following example. A case can be made to exempt plant lighting since this yields fewer emissions than gas lamps. Although there are safety and convenience reasons for electric lighting, the primary reason for this type installation is economics - not pollution control. If you say this is not a valid argument because electric lighting is the accepted technology, then we submit that HRSGs in these plants are also the accepted technology used for many years.

The primary reason for building combined-cycle and cogeneration power plants is economics and not pollution control. If the gas turbine(s) is removed, then all you need is a set of burners and an intake fan to have the same production on the steam side. Since this type of boiler is a major component of production, it is not pollution control equipment.

#### V. Conclusions

The 2007 Texas Legislature HB 3732 required the creation of a nonexclusive list that included HRSGs that the TCEQ must consider. The bill does not specify what is pollution control

equipment. The bill clearly leaves the determination of pollution control devices to the TCEQ.

HB 3732 does not mention including equipment that is in place for producing a product.

The boilers in these power plants are installed to produce steam and/or electricity for sale rather than to reduce pollution and do not qualify for a tax exemption. **Therefore, we respectfully request that the Negative Use Determination be upheld for the primary boiler (HRSG) of any cogeneration or combined-cycle power plant.**

Thank you for your favorable consideration.

## Mailing List

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